



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 31, 1996

Mr. David Anderson
Chief Legal Counsel
Texas Education Agency
1701 North Congress Avenue
Austin, Texas 78701

OR96-0128

Dear Mr. Anderson:

You have asked this office to determine if certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 36433.

The Texas Education Agency ("TEA") received a request for information concerning the elimination of the Professional Practices Commission, and for TEA's internal procedures regarding complaints about ethics violations received by, on, or after September 1, 1993. The requestor modified his initial request and now asserts that he is "only interested in 'operative' documents controlling TEA procedures."¹ We assume that you have already released some responsive documents to the requestor. You have, however, submitted to this office as responsive to this request other documents that you seek to withhold from disclosure pursuant to section 552.111.

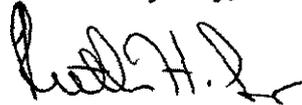
Section 552.111 excepts from disclosure interagency or intra-agency communications "consisting of advice, recommendations, opinions, and other material reflecting the deliberative or policymaking processes of the governmental body." Open Records Decision No. 615 (1993) at 5. Section 552.111 excepts from required public disclosure preliminary drafts of documents related to policymaking matters, since drafts represent the advice, opinion, and recommendation of the drafter as to the form and content of the final document. *Id.*; see also Open Records Decision No. 559 (1990).

¹The requestor has raised the issue of whether certain documents actually exist. We note that chapter 552 does not apply to information that does not exist, see Open Records Decision No. 555 (1990), nor does chapter 552 require governmental bodies to prepare new information in response to a request. *Economic Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.--San Antonio, 1978, writ dismissed). We assume that you have advised the requestor if certain information does not exist.

You have submitted to this office documents that you assert are inter- or intra-agency draft documents related to TEA's policymaking processes. We agree that the submitted documents may be withheld from disclosure pursuant to section 552.111.²

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref.: ID# 36433

Enclosures: Marked documents

cc: Mr. Richard L. Arnett
Brim, Arnett & Judge, P.C.
2525 Wallingwood Drive
Building 14
Austin, Texas 78746
(w/o enclosures)

²Because the information at issue may be withheld from disclosure under section 552.111, we need not address your other arguments against disclosure.